

MT LEGISLATIVE HISTORY

Chapter 587 19 85

Bill H 574 S _____

Original bill & hist. C

H. Committee on Business & Labor

S. Committee on Business & Industry

Hearing Date(s) Feb 11 ✓ C

Hearing Date(s) Mar 18 ✓ C

Feb 12 ✓ C

Mar 27 ✓ C

_____ C

_____ C

_____ C

_____ C

Date Out Feb 12 ✓ C

Mar 27 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

laws, but that the problem has become more apparent in the last few years.

Representative Simon asked how an odometer could be checking on a non-moving vehicle.

Rep. Wallin asked Mr. Schoen what the difference will be between House Bill 573 and the present law. Mr. Schoen stated that an odometer statement is a federal requirement, but that his office never sees these statements.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on House Bill 573 was closed.

HOUSE BILL 568: Hearing commenced on House Bill 568. Representative Jack Moore, District #37, sponsor of the bill, stated that this bill establishes a limit of seven days on credit extended by a tobacco wholesaler to a retailer and allows revocation of a wholesaler's or a retailer's license for violation.

Proponent Tom Maddox, representing the Montana Association of Tobacco and Candy Distributors, supplied testimony as outlined on his witness statement, attached hereto.

Opponent Mike Garrity, representing the Department of Revenue, stated that problems with the Montana Administrative Procedure Act and administering would result.

Representative Pavlovich suggested to Mr. Garrity that the distributor maintain all records.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on House Bill 568 closed.

HOUSE BILL 574: Hearing commenced on House Bill 574. Representative Fred Thomas, District #62, sponsor of the bill, at the request of the Public Service Commission, distributed to committee members Exhibit 7, which is attached hereto. Representative Thomas explained that this bill allows a utility to correct a customer billing error by back billing for up to six months.

Proponent Taiffy Miller, representing the Public Service Commission, supplied written testimony which is attached hereto as Exhibit 8.

Proponent Pamela Merrell, representing the Montana Power Company, supports the concept of House Bill 574. She stated that collecting on under billings, has been cloudy due to lack of authority. House Bill 574 will help the administration in collecting .

Proponent John Alke, representing Montana/Dakota Utilities, distributed to committee members Exhibit 9, which is attached hereto. Mr. Alke explained these amendments and added that the statute of limitations is for eight years and provides six months after the error occurred.

Proponent David Dietrich, representing Pacific Power and Light, offered his support of the bill and of the amendment proposed by Mr. Alke.

Proponent Opal Winebrenner, staff council for Public Service Commission, stated that the proposed amendment makes recovery a civil action and that assistance should be requested from the commission. She added that residents and small business customers should only be charged for service they have received.

Representative Driscoll asked Opal Winebrenner why municipal utilities have been excluded. Ms. Winebrenner explained that in chapter 7, they are given the ability to determine their own service rules.

Representative Kitselman asked Ms. Winebrenner if the role of the Public Service Commission is regulatory or managerial. Ms. Winebrenner stated that the commission sets rates and it is their responsibility to see that rates are applied correctly and to adjust errors.

Representative Kadas asked John Alke why a time period should be placed on the consumer when it is the utility that makes the error. Mr. Alke stressed that it is the occupant that makes the error, not the utility.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on House Bill 574 was closed.

HOUSE BILL 527: Hearing commenced on House Bill 527. Representative Bruce Simon, District #91, sponsor of the bill, stated that this bill would remove the state from the retail liquor business. The council supports the bill. Representative Simon, distributed to committee members Exhibit 10, which are proposed amendments to the bill. Shipping cost will not be affected and the price of liquor can not be accelerated greater than 110% of the posted retail price. A

DAILY ROLL CALL
BUSINESS AND LABOR COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Feb. 11, 1985

NAME	PRESENT	ABSENT	EXCUSED
Bob Pavlovich	✓		
Les Kitselman	✓		
Bob Bachini	✓		
Ray Brandewie	✓		
Jan Brown	✓		
Jerry Driscoll	✓		
Robert Ellerd			
William Glaser	✓		
Stella Jean Hansen	✓		
Marjorie Hart	✓		
Ramona Howe			✓
Tom Jones	✓		
Mike Kadas	✓		
Vernon Keller	✓		
Lloyd McCormick	✓		
Jerry Nisbet	✓		
James Schultz	✓		
Bruce Simon	✓		
Fred Thomas	✓		
Norm Wallin	✓		

49th Legislature

LC 1107

STATEMENT OF INTENT

_____ BILL NO. _____

A statement of intent is required by this bill because it grants the public service commission the authority to promulgate rules to implement this section if necessary. The utility service billing errors described in subsections (2)(a) and (2)(b) may take many forms, as each type of utility service provided is billed in a manner peculiar to the particular service, e.g., telephone versus electrical billing. Given this utility billing diversity, the legislature finds it necessary to allow the public service commission rulemaking authority to allow the commission to address unanticipated billing error problems.

customer should be able to rely on the utility bill he receives as an accurate reflection of his service cost, but he should not be allowed to receive service for no charge because a billing error has occurred. The Commission believes that the six month time limit will encourage utilities to do what is necessary to prevent billing errors, while protecting customers from being required to pay for service billing errors that may have been in existence for a number of months or years.

The Commission has proposed that the new statute apply to public natural gas and electric utilities, telephone utilities, and privately-owned water and sewer utilities, thus exempting municipally-owned water and sewer utilities. Since the Commission has only partial regulatory jurisdiction over municipally-owned utilities, the Commission's jurisdiction does not extend to the determination and settlement of such billing errors.

The proposed statute would also exempt industrial class customers from its provisions. Industrial class customers are more likely to be aware of any variations in their bills that might indicate a billing error has occurred, and should bear greater responsibility for bringing the possible error to the utility's attention.

Residential and smaller commercial customers of gas and electric utilities, on the other hand, are less likely to be aware of variations in their billing that would indicate an error because of their smaller consumption and more varied energy usage.

The bill does not limit the time period for a customer to recover for overbilling by a utility; the appropriate Statute of Limitations would apply in those instances.

AMENDMENTS - HB 574

Strike Page 1, lines 5 through 9 in their entirety, and substitute therefore:

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING
A SIX MONTH STATUTE OF LIMITATIONS FOR CIVIL
ACTIONS ARISING FROM PUBLIC UTILITY BILLING ERRORS."

Strike Page 1 line 25 through Page 2 line 11 in their entirety and substitute therefore:

- (2) No civil action arising from a customer billing error shall be instituted by or against a public utility more than six months after the error occurred, regardless of when the error was discovered.

vlp

VISITORS' REGISTER

COMMITTEE

BILL NO. HB 574

DATE _____

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Taffey Miller	PSC	✓	
OPAL WINEBRENNER	PSC	✓	
Pamela Merrell	Montana Power	✓	
David Dickrich	PD+L	✓	
Teri England	MontPIRb	✓	
John Galt	MDY	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WRITING STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 12, 1985

The Meeting of the Business and Labor Committee was called to order by Chairman Bob Pavlovich, on February 12, 1985 at 7:30 a.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present.

ACTION ON HOUSE BILL 568: Representative Les Kitselman made a motion that House Bill 568 DO PASS. Representative Norm Wallin made a substitute motion that House Bill DO NOT PASS. Representative William Glaser seconded the motion, House Bill 568 DO NOT PASS with all but Representatives Brandewie, Kitselman and Pavlovich voting yes.

ACTION ON HOUSE BILL 573: Representative Wallin moved House Bill 573 DO PASS. Representative Glaser suggested that records be maintained for 5 or 6 years, not 10 as provided in the bill. Representative Glaser moved that on page 6, line 18, 6 years be inserted replacing 10 years. The amendment did pass with all but Representative McCormick voting yes. Representative Wallin moved that on page 6, lines 23 and 24 be stricken. Representative Brandewie offered a substitute motion to amend the requirement to one year. Representative Brandewie withdrew his motion. Representative Wallin's amendment DO PASS, with Representative Bachini, Driscoll, Hart and Pavlovich voting no. Representative Nisbet moved that the new section 3 be deleted. The amendment did pass by a unanimous vote. Representative Wallin's motion that House Bill 573 DO PASS AS AMENDED, received a unanimous vote.

ACTION ON HOUSE BILL 574: Representative Thomas made a motion that House Bill 574 DO PASS. Representative Kitselman moved the amendments as proposed by John Alke, representing Montana/Dakota Utilities. Representative Driscoll stated that this would cause the consumer to hire an attorney and thus lose every time. Representative Kitselman explained the amendments and moved that the 6 month provision be changed to 18 months. Representative Driscoll stated that the bill should be left as is. The amendment failed by unanimous vote. Representative Kadas moved the statement of intent which did pass with Representative Kitselman and Brandewie voting no. House Bill 574 DO PASS WITH STATEMENT OF INTENT, by unanimous vote.

HOUSE BILL 475: Hearing commenced on House Bill 475. Representative Rex Maschal, District #11, sponsor of the bill, stated that this bill revises laws on credit unions by requiring the director of the Department of Commerce to allow any activity that promotes competitive equality with federal credit unions or prevents adverse effects of members of state chartered credit unions. A loan to a member society, partnership, or corporation is limited to 5% of the credit union's shares and retained earnings, and the total of such loans may

DAILY ROLL CALL
BUSINESS AND LABOR COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Feb. 13, 1985

NAME	PRESENT	ABSENT	EXCUSED
Bob Pavlovich	✓		
Les Kitselman	✓		
Bob Bachini	✓		
Ray Brandewie	✓		
Jan Brown	✓		
Jerry Driscoll	✓		
Robert Ellerd	✓		
William Glaser	✓		
Stella Jean Hansen	✓		
Marjorie Hart	✓		
Ramona Howe	✓		
Tom Jones	✓		
Mike Kadas	✓		
Vernon Keller	✓		
Lloyd McCormich	✓		
Jerry Nisbet	✓		
James Schultz	✓		
Bruce Simon	✓		
Fred Thomas	✓		
Norm Wallin	✓		

STANDING COMMITTEE REPORT

February 12 19 65
page 1 of 2

MR. WILLIAM

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 574

FIRST reading copy (WHITE)
color

LEIS PUBLIC UTILITIES CORRECT CUSTOMER BILLING ERRORS BY
BACKFILLING 6 MOS.

HOUSE

574

Respectfully report as follows: That..... Bill No.....

DO PASS
STATEMENT OF INTENT ATTACHED

STATEMENT OF INTENT

A statement of intent is required by this bill because it grants the public service commission the authority to promulgate rules to implement this section if necessary. The utility service billing errors described in subsections (2) (a) and (2) (b) may take many forms, as each type of utility service provided is billed in a manner peculiar to the particular service, e.g., telephone versus electrical billing. Given this utility billing diversity, the legislature finds it necessary to allow the public service commission rulemaking authority to allow the commission to address unanticipated billing error problems.

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2-12-85 BILL NO. 574 TIME

NAME	AYE	NAY
Bob Pavlovich	✓	
Les Kittelman	✓	
Bob Bachini	✓	
Ray Brandewie	✓	
Jan Brown	✓	
Jerry Driscoll	✓	
Robert Ellerd	✓	
William Glaser	✓	
Stella Jean Hansen	✓	
Marjorie Hart	✓	
Ramona Howe	✓	
Tom Jones	✓	
Mike Kadas	✓	
Vernon Keller	✓	
Lloyd McCormick	✓	
Jerry Nisbet	✓	
James Schultz	✓	
Bruce Simon	✓	
Fred Thomas	✓	
Norm Wallin	✓	

Secretary Debbie Aquil

Chairman Bob Pavlovich

Motion: DO PASS WITH STATEMENT OF INTENT

CONSIDERATION OF HOUSE BILL 574: Representative Fred Thomas, House District 62, is the chief sponsor of this bill. He explained this bill deals with the situation when a consumer's bill is in error, the utility would not be able to go back more than six months to ask for the correct amount owed. He added it is the present policy of the Public Service Commission to do this now. After a compromise they drafted this bill for the consumer's interests.

PROPOSERS: Taffy Miller, from the Public Service Commission, explained this particular rule came about after they had received several complaints concerning this problem. She stated they have had no complaints from the utilities since implementing this rule and she felt this was a good consumer bill.

Mike Zimmerman, Montana Power Company representative, stated he had left-handed support for the bill. He noted they had participated in the rulemaking and have abided by this rule ever since. (EXHIBIT 2)

Gene Phillips, Pacific Power & Light Company representative; they they also support this legislation.

Teri England, MontPIRG, stated they are also in support of this bill.

OPPOSERS: Dennis Lopach, representing Mountain Bell, stated they are in opposition to this measure. They feel the impact to their industry could be very substantial. He feels it is focused primarily toward utilities and not the telecommunications industry. He explained the way telephone billing is done is far more complicated and sometimes harder to detect than a utility billing error. He noted there is an industrial customer exclusion and that the telephone company has no such class. He felt there should be some sort of an inclusion stating that the telecommunications industry has no industrial class. He suggested a ceiling level of perhaps \$5000 a month would be considered industrial level. He explained their billing is done by computers outside the state and they might perhaps have to hire input technicians to feed information regarding backbilling on a local basis. He was especially concerned about cases involving third party billing and the problems that might occur in this area. He felt the statute of limitations worked in two ways. For the customer it would be not more than 6 months but for Mountain Bell he felt it would be 8 years. He would like to see an exclusion made for providers of telecommunications services. He noted the language would have to be stricken from the Statement of Intent also.

Questions were then called for. Senator Christiaens asked what the statutory provision was now and was told 8 years. Senator Weeding wondered if a bill was in dispute if the six months would apply and Taffy Miller stated that it starts from the time the utility discovers the error and then goes back six months. Senator Weeding also inquired about the problems incurred with third party billing. Taffy Miller admitted this was a problem but she felt this was not the bill to deal with that particular situation.

Senator Gage wondered if this bill just deals with residential customers and Taffy Miller stated the way it is set up it is for all but industrial customers. Opal Winebrenner, Staff Attorney for the PSC, stated the reason they were excluded was because they feel industrial customers understand the bill procedures better. Senator Gage also wondered if a utility could get around this by just marking a bill "corrected" but Taffy Miller stated there are rules regarding this. Taffy Miller then distributed a copy of their position statement for House Bill 574. (EXHIBIT 3)

Senator Williams wondered how far back they went before on correcting backbilling and was told 8 years prior to this ruling. Senator Thayer asked Mike Zimmerman if the committee were to exclude telecommunications providers if this would alter his position. Mike Zimmerman of Montana Power stated it would not nor would it change Pacific Power & Light's position.

Senator Goodover asked Dennis Lopach just what he would like to see amended and he stated he would like to see a complete exclusion of providers of regulated telecommunications services. Senator Halligan asked Opal Winebrenner if the PSC just couldn't have broad enough authority to do this now but she stated they did not have the authority. She stated that the reason for the additional rulemaking authority in the Statement of Intent was because they realize that all billing is not done the same by every utility.

Senator Williams wondered what percentage of the problems were with telecommunications and PSC felt only a small percentage. Representative Thomas felt there was a need for the bill because we are dealing with a monopoly of regulated utilities and we need a good sound rule. Regarding an amendment he felt we should address something that will accomodate real problems but rejected the idea of a blanket exclusion of the telecommunications industry because he felt it would violate the intent of the bill. He then closed the hearing on House Bill 574.

CONSIDERATION OF HOUSE BILL 707: Representative Loren Jenkins, House District 13, Big Sandy, is the chief sponsor of this bill which the rural water users wanted him to introduce. He explained there had been meetings of negotiation between rural water users, plumbing unions, building contractors and the plumbing board. He explained they have had problems in small towns and rural areas where an inspector is not always available. The plumbers would like to be able to be licensed in more than one state and this was also included in the bill. There was also language in the measure dealing with discipline. He noted these agreements had been worked out between all the parties involved.

PROPOSERS: Alvin Thomas, from the Board of Plumbing, stated they had found some inconsistencies in the rules and had worked out an agreement they could all agree to. He was in favor of the amendment that would be presented by the contractor's association.

ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/18/85

SENATE
SEAT
#

NAME	PRESENT	ABSENT	EXCUSED
Chairman Halligan	X		
V-chrm. Christiaens	X		
Senator Boylan	X		
Senator Fuller	X		
Senator Gage	X		
Senator Goodover	X		
Senator Kolstad	X		
Senator Neuman	X		
Senator Thayer,	X		
Senator Williams	X		
Senator Weeding	X		

Each day attach to minutes.

DATE: MARCH 18, 1985

COMMITTEE ON BUSINESS & INDUSTRY

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

NAME: Mike Zimmerman DATE: Mar 18

ADDRESS: 40 E. Broadway

PHONE: 723-5421

REPRESENTING WHOM? MPC

APPEARING ON WHICH PROPOSAL: H8574

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS:

① The bill repeats a rule adopted
by PSC.

② MPC does not object

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 2
BUSINESS & INDUSTRY
March 18, 1985

PUBLIC SERVICE COMMISSION

2701 Prospect Avenue • Helena, Montana 59620
Telephone: (406) 444-6199

Thomas Schneider, Chairman
John Driscoll
Howard Ellis
Clyde Jarvis
Danny Oberg

POSITION STATEMENT

The Montana Public Service Commission is proposing a new statute to address problems that have arisen concerning a public utility's discovery of a customer billing error. The most common billing errors are when the utility finds that a customer has been underbilled for service received, or when the utility finds that a customer has not been properly billed under normal billing practices. The proposed statute defines what a billing error is, and clearly provides that if the failure to bill a customer is due to the customer committing a theft of the service, the provisions of this statute will not apply to that customer.

The proposal also provides that once a billing error is discovered by a utility, the utility may only backbill a customer for a period of six months. This time limit provides for a balancing between the interests of both the customer and the utility. The utility should strive to prevent any billing errors from occurring, but should also be allowed to receive compensation for service that has been rendered to the customer involved. The

customer should be able to rely on the utility bill he receives as an accurate reflection of his service cost, but he should not be allowed to receive service for no charge because a billing error has occurred. The Commission believes that the six month time limit will encourage utilities to do what is necessary to prevent billing errors, while protecting customers from being required to pay for service billing errors that may have been in existence for a number of months or years.

The Commission has proposed that the new statute apply to public natural gas and electric utilities, telephone utilities, and privately-owned water and sewer utilities, thus exempting municipally-owned water and sewer utilities. Since the Commission has only partial regulatory jurisdiction over municipally-owned utilities, the Commission's jurisdiction does not extend to the determination and settlement of such billing errors.

The proposed statute would also exempt industrial class customers from its provisions. Industrial class customers are more likely to be aware of any variations in their bills that might indicate a billing error has occurred, and should bear greater responsibility for bringing the possible error to the utility's attention.

Residential and smaller commercial customers of gas and electric utilities, on the other hand, are less likely to be aware of variations in their billing that would indicate an error because of their smaller consumption and more varied energy usage.

The bill does not limit the time period for a customer to recover for overbilling by a utility; the appropriate Statute of Limitations would apply in those instances.

Senator Goodover wondered if the bill were amended if it would do any good. Rep. Nathe felt that it was a statement of intent anyway. He then closed the hearing on House Bill 121.

DISPOSITION OF HOUSE BILL 121: Senator Boylan then MOVED TO ADOPT THE AMENDMENTS PROPOSED BY MONTANA DAKOTA UTILITIES. The motion carried.

Senator Boylan then MOVED TO CONCUR IN HOUSE BILL 121 AS AMENDED. The motion carried. Senator Smith will carry the bill on the Senate floor.

DISPOSITION OF HOUSE BILL 574: Senator Halligan explained had been awaiting an amendment regarding the question of whether or not telephone billing should be included in this backbilling measure. Copies of the proposed amendment were distributed. (EXHIBIT 2)

Senator Gage then MOVED TO ADOPT THE AMENDMENTS EXCLUDING LONG DISTANCE BILLING. It was noted the PSC would rather see telecommunications out of the bill completely. Senator Thayer wondered about third party billing. Joe Thares of Mountain Bell, explained this amendment includes all long distance not just third party billing. Senator Weeding was concerned about large bills that are run up by someone on another phone number and Joe Thares explained this would be considered fraud and was set aside in the bill as fraud. The motion carried.

Senator Goodover then MOVED TO CONCUR IN HOUSE BILL 574 AS AMENDED. The motion carried. Senator Kolstad will carry this bill on the Senate floor.

DISPOSITION OF HOUSE BILL 598: Mary McCue, Legislative Staff Attorney, explained this measure would just change the wording to note that you could change the method of billing more than once a year. Senator Thayer spoke against the measure because he felt the measure was directed toward one refinery and would put them out of business if the measure were to pass. He felt buying temperature compensated would be much better.

Senator Christiaens MOVED THAT HOUSE BILL 598 NOT BE CONCURRED IN. Senator Weeding felt the farms were the ones being short-changed. Senator Gage felt buying temperature compensated product would be the better method. He felt the station owner was the one being shorted. Senator Christiaens felt changing the method of billing more than once a year would not be fair to the wholesaler. The motion TO NOT CONCUR passed. On a roll call vote, Senator Halligan, Senator Boylan, Senator Gage, Senator Kolstad, and Senator Weeding voted no. Senator Gage will carry the adverse report on the Senate floor.

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3-27-85

NAME	PRESENT	ABSENT	EXCUSED
Chairman Halligan	X		
V-chrm. Christiaens	X		
Senator Boylan	X		
Senator Fuller	X		
Senator Gage	X		
Senator Goodover	X		
Senator Kolstad	X		
Senator Neuman	X		
Senator Thayer	X		
Senator Williams	X		
Senator Weeding	X		

Each day attach to minutes.

STANDING COMMITTEE REPORT

MARCH 27

35

19.....

MR. PRESIDENT

BUSINESS & INDUSTRY

We, your committee on

HOUSE BILL No. 574

having had under consideration.....

third reading copy (blue)
color

LETS PUBLIC UTILITIES CORRECT CUSTOMER BILLING ERRORS BY BACKBILLING
6 MOS. (Kolstad)

HOUSE BILL No. 574

Respectfully report as follows: That.....

be amended as follows:

1. Page 1, line 24.

Following: "customer;"

Strike: "and"

2. Page 2, line 1.

Following: "customer"

Insert: ";and (v) excludes errors incurred in the billing of
long distance services by a telecommunications utility"

AND AS AMENDED
BE CONCURRED IN

XXXXX

XXXXXXXXXX
DO NOT PASS

Sen. Mike Halligan

Chairman.